

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

18 Cr 879 (SHS)

v.

ARIEL JIMENEZ,

Defendant.

ASHLEY MEDINA,

Petitioner.

Amended Affidavit of Ms. Ashley Medina under the Penalty of Perjury

I, Ashley Medina, declare under penalty of perjury the following:

1. Ashley Medina, the innocent party petitioner has an interest in the specific property and solely 4570 Henry Hudson Parkway, Bronx, NY 10471.

Ashley Medina has two leases with the 4570 Henry Hudson property, one is for her fully operating daycare/preschool and after-school program (**See exhibit 1**) and the other lease is for her personal residence where Ashley and her two small children 2.5 years old and 15 months old reside (**See exhibit 2**).

Title 21, United States Code, Section 853(n) requires petitioners to demonstrate "an interest in a particular, specific asset, as opposed to a general interest in an entire forfeited estate or account".

2. Sunrise Charisma is Ashley Medina's in-home daycare and is a sole proprietorship.

When Ashley Medina created this LLC, no elections were made for the LLC therefore it automatically defaulted as a sole proprietorship.

According to the IRS, A Limited Liability Company (LLC) is an entity created by state statute. Depending on elections made by the LLC and the number of members, the IRS will treat an LLC either as a corporation, partnership, or as part of the owner's tax return (a "disregarded entity"). If a single-member LLC does not elect to be treated as a corporation, the LLC is a "disregarded entity," and the LLC's activities should be reflected on its owner's federal tax return.

3. Ashley Medina established and currently operates a daycare center, New York City 3-K certified preschool and after-school program within her home of 4570 Henry Hudson Parkway called Sunrise Charisma.

4. Sunrise Charisma is licensed by the New York State Office of Children and Family Services to care for children between the ages of 6 weeks to 12 years old (**See exhibit 3**). It is a 3-K certified preschool and is affiliated with Cardinal McCloskey School and Home for Children(Bronx) and NYC Department of Education (**See exhibit 4**). Ashley Medina listened to the needs of her community and helped to make a positive change that benefits the economy and entire community. The center has become an integral part of the lives of many families, providing a safe and nurturing environment for their children's growth and development. It is an asset to the community and many parents have attested to the positive impact it has had on their children (**See exhibit 5**). Ashley Medina also incorporated an after-school program in which she provides transportation from the child's school to her daycare for children whose parents can't pick them up in time because of their work schedule. In this after-school program, Ashley tutors these children, helps them with homework and provides them with dinner. There are currently 16 children enrolled in this daycare ranging from the ages of 6 months old to 8 years old (**See exhibit 6**). Sunrise Charisma is affordable to parents and has become a well-known top daycare in Riverdale. There is a waiting list to get into Sunrise Charisma Daycare and this would not have been possible if it wasn't for the 4570 Henry Hudson house.
5. Along with the NYC Department of Education, Ashley devoted many long hours to create an additional space inside her home of 4570 Henry Hudson that is solely dedicated to the 3-K program and teaching the NYC DOE curriculum. 3-K provides free, full day, high quality early childhood education for 3 year olds and children who are turning 3 years old during the calendar year. Parents had to apply to 3-K for the 2023-2024 school year by March 13, 2023 (**See exhibit 7**). There is a shortage of these programs in the Riverdale area and Sunrise Charisma is a major benefit to the community. There are actively enrolled students in Sunrise Charisma's 3-K program and if Ashley were to be evicted from her home we would be doing an injustice to these children. We would be disrupting their education by causing Sunrise Charisma to shut down and parents would not be able to place their children into another 3-K program for this school year since enrollment is now complete (**See exhibit 8**).
6. Research has shown that "The child care industry was already suffering before the COVID-19 pandemic, with more than 50 counties in 2018 considered child care deserts, or where there is more demand for child care than there are providers." Therefore, evicting Ashley will destroy everyone who is a part of the Sunrise Charisma Family. Ashley Medina, her two small children, six employees and all the children who attend Sunrise Charisma Daycare will be completely destroyed and devastated if the government rips them out of their home and daycare. These six employees and 16 children spend more hours at the Henry Hudson house than their own home. All of the children, their families and the employees of Sunrise Charisma Daycare consider the Henry Hudson House their home too.
7. If Ashley is evicted out of the house of 4570 Henry Hudson Parkway and the government proceeds with the sale or disposition of the property, it will result in irreparable injury, harm, or loss to not only Ashley, but all of the children who attend this daycare, NYC Department of Education preschool, after-school program and all of her six employees who are mothers and are providing for their own families based off their income that they receive from working there.
8. Through Ashley's efforts, she has strived to foster a sense of community, offering support and care for both the children and their parents. She also reaches out beyond her own community to help enrich the lives of children through the Make-A-Wish Foundation, American Red Cross and St. Jude Children's Hospital through the proceeds received from the daycare. Moreover, Ashley has become a Board

Member of the Riverdale Main Streets Alliance, an organization that was created in 2012, as the North Riverdale Merchants and Business Association. They are a growing network of local community members, civic organizations, nonprofits and local businesses that provide an outreach to the community through organized events, beautification and business advocacy. Sunrise Charisma was one of the sponsors for their annual Riverdale Block Party/Festival this year and we provided a table for children to have some fun with arts & crafts and water table games (**See exhibit 9**). Ashley Medina is also a member of the Bronx Chamber of Commerce. All of these positive contributions would not have been possible if it were not for the 4570 Henry Hudson house.

9. Ashley Medina has a personal residential lease agreement at 4570 Henry Hudson Parkway,

Ashley has made major enhancements to the 4570 Henry Hudson house and maintained the property which has only added more value to the home. Ashley is a single mother raising her family in this home where her children feel safe and secure (**See exhibit 10**). This is their home and it is all they have. Ashley and her little ones, to no fault of their own, have faced enormous trauma, pain and hardship and the government evicting them will cause even further damage. As a result of Ashley being evicted, she and her small children will be forced into a homeless situation and or in a shelter. She and her family will lose everything that Ashley has worked hard for in the 4570 Henry Hudson house. Ashley's heart, soul, and a means to support herself and everything she has is completely invested in this 4570 Henry Hudson house.

Title 21, United States Code, Section 853(h) the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

In a world where it has become extremely difficult for many families to make ends meet, there would be no way for Ashley Medina to work and raise her children at the same time. Ashley and her children would suffer serious emotional damage if they ended up living in a shelter. The stability and familiarity of their home are critical for their emotional growth and well-being of Ashley's children.

10. The petitioner was not aware that the petition shall be signed by the petitioner under penalty of Perjury. If Ashley Medina, the petitioner had known that the petition needed to be signed under penalty of perjury she would have done so.

Conclusion

Evicting Ashley and her family will result in major irreparable damage to not only her life, but the lives of all of those who work at Sunrise Charisma Daycare and the children of the employees that work there and the families who are enrolled at Sunrise Charisma. Ashley and her children have no place to go if they are evicted from 4570 Henry Hudson house and the daycare will be forced to completely shut down. Ashley and her children will lose everything if they are evicted from the 4570 Henry Hudson house. Everyone involved will suffer. This will cause major damage to Ashley, her two small children, the 6 employees that work at Sunrise Charisma and the children who attend this daycare. The people working there will become unemployed and, in turn, struggle to support their families. Furthermore, the friendships and relationships that these children and employees have created will be broken up and the children will be displaced. This could all be avoided if

Ashley is allowed to stay in her home where she can raise her children and continue to be a positive, productive member doing good work in her community.

We respectfully ask, taking everything into consideration, that Ashley, her family and the Sunrise Charisma Daycare are granted the third party right to transfer the property into their name, or refinance the property and pay the government the money that they want for the property under:

Title 21, United States Code, Section 853(h) the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

or to stay pending appeal.

Under Rule 32.2 (6)(d) STAY PENDING APPEAL. If a defendant appeals from a conviction or an order of forfeiture, the court may stay the order of forfeiture on terms appropriate to ensure that the property remains available pending appellate review. A stay does not delay the ancillary proceeding or the determination of a third party's rights or interests. If the court rules in favor of any third party while an appeal is pending, the court may amend the order of forfeiture but must not transfer any property interest to a third party until the decision on appeal becomes final, unless the defendant consents in writing or on the record.

Wherefore, it is respectfully stated that the Court grants consideration to the compelling circumstances of the Petitioner. I stated the foregoing under the penalty of perjury.


Ashley Medina

Sworn to before me this day of
September 15, 2023


Notary Public

SILVIA MARIA VIZCAINO
Notary Public, State of New York
Reg. No. 01VH998898
Qualified in New York County
Commission Expires July 6, 20__



Exhibits Enclosed:

- Ex 1: Ashley's lease agreement with Sunrise Charisma and 4570 Henry Hudson Parkway
- Ex 2: Ashley's residential lease agreement with 4570 Henry Hudson Parkway
- Ex 3: Sunrise Charisma Daycare license from New York State Office of Children and Family Services
- Ex 4: Sunrise Charisma 3-K Certified Program Information and Number
- Ex 5: Email and Google Reviews from parents of Sunrise Charisma
- Ex 6: Pictures of children in daycare
- Ex 7: Enrollment Deadline for 3-K (March 13, 2023)
- Ex 8: 3-K classroom and students
- Ex 8: Pictures of Block Party/Festival
- Ex 9: Pictures of Ashley's children